

§ 1275.8

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(f)(1) If any funds are transferred under § 1275.6 of this part to the apportionment of a State under Section 402 for a fiscal year, an amount, determined under paragraph (e)(2) of this section, of obligation authority will be distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under Section 402.

(2) The amount of obligation authority referred to in paragraph (e)(1) of this section shall be determined by multiplying:

(i) The amount of funds transferred under § 1275.6 of this Part to the apportionment of the State under Section 402 for the fiscal year; by

(ii) The ratio that:

(A) The amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

(B) The total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

(g) Notwithstanding any other provision of law, no limitation on the total obligations for highway safety programs under Section 402 shall apply to funds transferred under § 1275.6 to the

apportionment of a State under such section.

[63 FR 55802, Oct. 19, 1998, as amended at 65 FR 59124, Oct. 4, 2000]

§ 1275.8 Procedures affecting States in noncompliance.

(a) Each fiscal year, each State determined to be in noncompliance with 23 U.S.C. 164 and this part, based on NHTSA's and FHWA's preliminary review of its certification, will be advised of the funds expected to be transferred under § 1275.4 from apportionment, as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.

(b) If NHTSA and FHWA determine that the State is not in compliance with 23 U.S.C. 164 and this part, based on the agencies' preliminary review, the State may, within 30 days of its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance. Documentation shall be submitted to the appropriate National Highway Traffic Safety Administration Regional office.

(c) Each fiscal year, each State determined not to be in compliance with 23 U.S.C. 164 and this part, based on NHTSA's and FHWA's final determination, will receive notice of the funds being transferred under § 1275.6 from apportionment, as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.

CHAPTER III—NATIONAL HIGHWAY TRAFFIC
SAFETY ADMINISTRATION, DEPARTMENT OF
TRANSPORTATION

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PART 1313—INCENTIVE GRANT CRITERIA FOR ALCOHOL-IM- PAIRED DRIVING PREVENTION PROGRAMS

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APPENDIX A TO PART 1313—TAMPER RESISTANT DRIVER'S LICENSE

AUTHORITY: 23 U.S.C. 410; delegation of authority at 49 CFR 1.50.

SOURCE: 63 FR 71700, Dec. 29, 1998, unless otherwise noted.

§ 1313.1 Scope.

This part establishes criteria, in accordance with 23 U.S.C. 410, for awarding incentive grants to States that adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving motor vehicles while under the influence of alcohol.

§ 1313.2 Purpose.

The purpose of this part is to encourage States to adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving motor vehicles while under the influence of alcohol. The criteria established are intended to ensure that State alcohol-impaired driving prevention programs for which incentive grants are awarded meet or exceed minimum levels designed to improve the effectiveness of such programs.

§ 1313.3 Definitions.

(a) *Alcoholic beverage* means wine containing one-half of one percent or more of alcohol by volume, beer and distilled spirits. Beer includes, but is not limited to, ale, lager, porter, stout, sake, and other similar fermented beverages brewed or produced from malt, wholly or in part, or from any substitute therefor. Distilled spirits include alcohol, ethanol, or spirits or wine in any

form, including all dilutions and mixtures thereof from whatever process produced.

(b) *Blood alcohol concentration* or *BAC* means grams of alcohol per deciliter or 100 milliliters blood or grams of alcohol per 210 liters of breath.

(c) *Controlled substance* has the meaning given such term under section 102(6) of the Controlled Substances Act, 21 U.S.C. 802(6).

(d) *FARS* means NHTSA's Fatality Analysis Reporting System, previously called the Fatal Accident Reporting System.

(e) *Motor vehicle* means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads and highways, but does not include a vehicle operated only on a rail line.

(f) *Operating a motor vehicle while under the influence of alcohol* means operating a vehicle while the alcohol concentration in the blood or breath, as determined by chemical or other tests, equals or exceeds the level established by the State that would be deemed to be or equivalent to the standard driving while intoxicated offense in the State.

(g) *Standard driving while intoxicated (DWI) offense* means the law in the State that makes it a criminal offense to operate a motor vehicle while under the influence of or intoxicated by alcohol, but does not require a measurement of alcoholic content.

§ 1313.4 General requirements.

(a) *Qualification requirements.* To qualify for a grant under 23 U.S.C. 410, a State must, for each fiscal year it seeks to qualify:

(1) Submit an application to the appropriate NHTSA Regional Office that demonstrates that it meets the requirements of § 1313.5 and/or § 1313.6 and, if applicable, § 1313.7, and includes certifications that:

(i) It has an alcohol-impaired driving prevention program that meets the requirements of 23 U.S.C. 410 and 23 CFR Part 1313;

(ii) It will use the funds awarded under 23 U.S.C. 410 only for the implementation and enforcement of alcohol-impaired driving prevention programs;

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(iii) It will administer the funds in accordance with 49 CFR Part 18 and OMB Circulars A-102 and A-87; and

(iv) It will maintain its aggregate expenditures from all other sources for its alcohol-impaired driving prevention programs at or above the average level of such expenditures in fiscal years 1996 and 1997 (either State or Federal fiscal year 1996 and 1997 can be used); and

(2) After being informed by NHTSA that it is eligible for a grant, submit to the agency, within 30 days, a Program Cost Summary (HS Form 217) obligating the Section 410 funds to alcohol-impaired driving prevention programs.

(3) Submit a State Highway Safety Plan by September 1 of each year, pursuant to 23 U.S.C. 402 and 23 CFR part 1200, that documents how the State intends to use the Section 410 grant funds.

(4) Submit an application for grant funds, which must be received by the agency not later than August 1 of the fiscal year for which the State is applying for funds.

(b) *Limitation on grants.* A State may receive grants for up to six fiscal years beginning after September 30, 1997, subject to the following limitations:

(1) After September 30, 1998, the amount of each basic grant in a fiscal year, under § 1313.5 or § 1313.6, shall equal 25 percent of the State's apportionment under 23 U.S.C. 402 for FY 1997, subject to the availability of funds. If a State qualifies for basic grants in a fiscal year under both § 1313.5 and § 1313.6, the total amount of basic grants in the fiscal year shall equal 50 percent of the State's 23 U.S.C. 402 apportionment for FY 1997, subject to the availability of funds.

(2) After September 30, 1998, the amount of a State's supplemental grant in a fiscal year, under § 1313.7, shall be determined by multiplying the number of supplemental grant criteria the State meets by five percent of the State's 23 U.S.C. 402 apportionment for FY 1997, except that the amount shall be subject to the availability of funds. The amount available for supplemental grants for all States in a fiscal year, under § 1313.7, shall not exceed ten percent of the total amount made available under 23 U.S.C. 410 for the fiscal year.

(3) In the first and second fiscal years a State receives a basic or supplemental grant, it shall be reimbursed for up to 75 percent of the cost of its alcohol-impaired driving prevention program adopted pursuant to 23 U.S.C. 410.

(4) In the third and fourth fiscal years a State receives a basic or supplemental grant, it shall be reimbursed for up to 50 percent of the cost of its alcohol-impaired driving prevention program adopted pursuant to 23 U.S.C. 410.

(5) In the fifth and sixth fiscal years a State receives a basic or supplemental grant, it shall be reimbursed for up to 25 percent of the cost of its alcohol-impaired driving prevention program adopted pursuant to 23 U.S.C. 410.

§ 1313.5 Requirements for a programmatic basic grant.

To qualify for a programmatic basic incentive grant of 25 percent of the State's 23 U.S.C. 402 apportionment for FY 1997, a State must adopt and demonstrate compliance with at least five of the following criteria:

(a) *Administrative license suspension or revocation system*—(1) *Criterion.* An administrative driver's license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol that requires that:

(i) In the case of an individual who, in any five-year period beginning after June 9, 1998, is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State entity responsible for administering driver's licenses, upon receipt of the report of the law enforcement officer, shall:

(A) Suspend all driving privileges for a period of not less than 90 days if the individual refused to submit to a chemical test and is a first offender;

(B) Suspend all driving privileges for a period of not less than 90 days, or not less than 30 days followed immediately by a period of not less than 60 days of a restricted, provisional or conditional license, if the individual was determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol,

and is a first offender. A restricted, provisional or conditional license may be issued only in accordance with a State law, regulation or binding policy directive establishing the conditions under which such a license may be issued, or with statewide published guidelines, and in exceptional circumstances specific to the offender; and

(C) Suspend or revoke all driving privileges for a period of not less than one year if the individual was determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or refused to submit to such a test, and is a repeat offender; and

(ii) The suspension or revocation shall take effect not later than 30 days after the day on which the individual refused to submit to a chemical test or received notice of having been determined to be operating a motor vehicle while under the influence of alcohol, in accordance with the procedures of the State.

(2) *Definitions*—(i) *First offender* means an individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and who is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or who refused to submit to such a test, once in any five-year period beginning after June 9, 1998.

(ii) *Repeat offender* means an individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and who is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or who refused to submit to such a test, more than once in any five-year period beginning after June 9, 1998.

(3) *Demonstrating compliance for Law States.* (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, a Law State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of this criterion.

(ii) To demonstrate compliance in subsequent fiscal years, a Law State shall submit a copy of any changes to the State's law, regulation or binding policy directive or, if there have been no changes, the State shall submit a statement certifying that there have been no changes in the State's laws, regulations or binding policy directives.

(iii) For purposes of this paragraph, *Law State* means a State that has a law, regulation or binding policy directive implementing or interpreting an existing law or regulation that provides for each element of this criterion.

(4) *Demonstrating compliance for Data States.* (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, a Data State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for an administrative license suspension or revocation system, and data showing that the State substantially complies with each element of this criterion not specifically provided for in the State's law, regulation or binding policy directive.

(ii) To demonstrate compliance in subsequent fiscal years, a Data State shall submit, in addition to the information identified in paragraph (a)(3)(ii) of this section, data showing that the State substantially complies with each element of this criterion not specifically provided for in the State's law, regulation or binding policy directive.

(iii) The State can provide the necessary data based on a representative sample, on the average number of days it took to suspend or revoke a driver's license and on the average lengths of suspension or revocation periods, except that data on the average lengths of suspension or revocation periods must not include license suspension periods that exceed the terms actually prescribed by the State, and must reflect terms only to the extent that they are actually completed.

(iv) For the purpose of this paragraph, *Data State* means a State that has a law, regulation or binding policy directive implementing or interpreting

an existing law or regulation that provides for an administrative license suspension or revocation system, but the State's laws, regulations or binding policy directives do not specifically provide for each element of this criterion.

(b) *Underage drinking prevention program*—(1) *Criterion*. An effective underage drinking prevention program designed to prevent persons under the age of 21 from obtaining alcoholic beverages and to prevent persons of any age from making alcoholic beverages available to persons under the age of 21, that provides for:

(i) The issuance of tamper resistant driver's licenses to persons under age 21 that are easily distinguishable in appearance from driver's licenses issued to persons 21 years of age and older;

(ii) Public information programs targeted to underage drivers regarding drinking age laws, zero tolerance laws, and respective penalties;

(iii) A program to educate alcoholic beverage retailers and servers about both on- and off-premise consumption, and the civil, administrative and/or criminal penalties associated with the illegal sale of alcoholic beverages to underage drinkers;

(iv) An overall enforcement strategy directed at the sale and purchase of alcoholic beverages involving persons under the age of 21 that can be implemented locally throughout the State; and

(v) A prevention program that enlists the aid of persons under the age of 21.

(2) *Definitions*—(i) *Tamper resistant driver's license* means a driver's license that has one or more of the security features listed in Appendix A.

(3) *Demonstrating compliance*. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a description and sample materials documenting an underage drinking prevention program that covers each element of paragraphs (b)(1) (ii) through (v) of this section. The State shall also submit sample driver's licenses issued to persons both under and over 21 years of age that demonstrate the distinctive appearance of licenses for drivers under age 21 and the tamper resistance of these licenses.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall document any changes to the State's driver's licenses or underage drinking prevention program or, if there have been no changes, a statement certifying that there have been no changes in the State's driver's licenses or its underage drinking prevention program.

(c) *Statewide traffic enforcement program*—(1) *Criterion*. A Statewide traffic enforcement program that emphasizes publicity and is either:

(i) A program for stopping motor vehicles on a non-discriminatory, lawful basis for the purpose of determining whether or not the operators of such motor vehicles are driving under the influence of alcohol; or

(ii) A special traffic enforcement program to detect impaired drivers operating motor vehicles while under the influence of alcohol.

(2) *Demonstrating compliance*. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a comprehensive plan to conduct a program under which:

(A) Motor vehicles are stopped or special traffic enforcement is conducted on a Statewide basis, in major areas covering at least 50 percent of the State's population;

(B) Stops are made or special traffic enforcement is conducted not less than monthly;

(C) Stops are made or special traffic enforcement is conducted by both State and local (county and city) law enforcement agencies; and

(D) Effective public information efforts are conducted to inform the public about these enforcement programs.

(ii) The plan shall include guidelines, policies or operation procedures governing the Statewide enforcement program and provide approximate dates and locations of programs planned in the upcoming year, and the names of the law enforcement agencies expected to participate. The plan shall describe the public information efforts to be conducted.

(iii) to demonstrate compliance in subsequent fiscal years, the State shall submit an updated plan for conducting a Statewide enforcement program in the following year and information

documenting that the prior year's plan was effectively implemented.

(d) *Graduated driver's licensing system*—(1) *Criterion*. A graduated driver's licensing system for young drivers that consists of the following three stages:

(i) *Stage I*. A learner's permit may be issued after an applicant passes vision and knowledge test, including tests about the rules of the road, signs and signals. The State I learner's permit must be subject to the following conditions:

(A) Stage I learner's permit holders under the age of 21 are prohibited from operating a motor vehicle with a BAC of 0.02 or greater;

(B) Stage I learner's permit holders are prohibited from operating a motor vehicle while any occupant in the vehicle is not properly restrained in accordance with State or local safety belt and child restraint laws;

(C) A licensed driver who is 21 years of age or older must be in any motor vehicle operated by the Stage I learner's permit holder at all times;

(D) Stage I learner's permit holders must remain conviction free for not less than three months; and

(E) The Stage I learner's permit must be distinguishable from Stage II and III driver's licenses;

(ii) *Stage II*. An intermediate driver's license may be issued after an applicant has successfully complied with the conditions of the Stage I learner's permit for not less than three months and passed a driving skills test. The Stage II intermediate driver's license must be subject to the following conditions:

(A) Stage II intermediate driver's license holders under the age of 21 are prohibited from operating a motor vehicle with a BAC of 0.02 or greater;

(B) Stage II intermediate driver's license holders are prohibited from operating a motor vehicle while any occupant in the vehicle is not properly restrained in accordance with state or local safety belt and child restraint laws;

(C) A licensed driver who is 21 years of age or older must be in any motor vehicle operated by the Stage II intermediate driver's license holder, during some period of time between the hours of 10:00 p.m. and 6:00 a.m. as specified

by the State, unless covered by a State-approved exception;

(D) Stage II intermediate driver's license holders must have remained conviction free during Stages I and II for a combined period of not less than one year; and

(E) The Stage II intermediate driver's license must be distinguishable from Stage I learner's permits and Stage III driver's licenses; and

(iii) *Stage III*. A driver's license may be issued after an applicant has successfully complied with the conditions of the Stage I learner's permit and the Stage II intermediate driver's license for a combined period of not less than one year. The Stage III driver's license must be distinguishable from Stage I learner's permits and Stage II intermediate driver's licenses.

(2) *Definitions*.

(i) *Conviction free* means that, during the term of the permit or license, the driver has not been charged with and subsequently convicted of any offense under State or local law relating to the use or operation of a motor vehicle, to the extent required by State law.

(ii) *Successfully complied* means that the driver:

(A) Did not violate any of the conditions of the previous stage(s), or

(B) Has been subject to the consequences prescribed by State or local law for violating the conditions of the previous stage(s).

(3) *Demonstrating compliance*. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of this criterion. If the State's law, regulation or binding policy directive does not provide that Stage I permits and Stage II and Stage III licenses must be distinguishable, the State shall submit either:

(A) Sample permits and licenses, which contain visual features that would enable a law enforcement officer to distinguish between the permit and the licenses; or

(B) A description of the State's system, which enables law enforcement officers in the State during traffic stops

to distinguish between the permit and the licenses.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit a copy of any changes to the State's law, regulation, binding policy directive, permit or licenses, or State system or, if there have been no changes, the State shall submit a statement certifying that there have been no changes in the State's laws, regulations, binding policy directives, permit or licenses, or State system.

(e) *Program for drivers with high BAC*—(1) *Criterion*. Programs to target individuals with a high BAC who operate a motor vehicle.

(i) The programs shall establish a system of graduated sanctions for individuals convicted of operating a motor vehicle while under the influence of alcohol, under which enhanced or additional sanctions apply to such individuals if they were determined to have a high BAC.

(ii) The threshold level at which the high BAC sanctions must begin to apply may be any BAC level that is higher than the BAC level established by the State that is deemed to be or equivalent to the standard driving while intoxicated (DWI) offense, and less than or equal to 0.20 BAC.

(2) *Definitions*. *Enhanced or additional sanctions* means the imposition of longer terms of license suspension, increased fines, additional or extended sentences of confinement, vehicle sanctions, mandatory assessment and treatment as appropriate, or other consequences that do not apply to individuals who were not determined to have a high BAC.

(3) *Demonstrating compliance*. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of this criterion. In addition, the State shall submit the provisions that set forth the sanctions under its standard DWI offense.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit a copy of any changes to the State's law, regulation or binding pol-

icy directive or, if there have been no changes, the State shall submit a statement certifying that there have been no changes in the State's laws, regulations or binding policy directives.

(f) *Young Adult Drinking and Driving Program*—(1) *Criterion*. A young adult drinking and driving program designed to reduce the incidence of operating a motor vehicle while under the influence of alcohol by individuals between the ages of 21 and 34 that provides for:

(i) A Statewide public information and awareness campaign for young adult drivers regarding alcohol-impaired driving laws, and the legal and economic consequences of alcohol-impaired driving; and

(ii) Activities, implemented at the State and local levels, designed to reduce the incidence of alcohol-impaired driving by drivers between the ages of 21 and 34 that involve:

(A) The participation of employers;

(B) The participation of colleges or universities;

(C) The participation of the hospitality industry; or

(D) The participation of appropriate State officials to encourage the assessments and incorporation of treatment as appropriate into judicial sentencing for drivers between the ages for 21 and 34 who have been convicted for the first time of operating a motor vehicle while under the influence of alcohol.

(2) *Demonstrating compliance*. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit:

(A) A description and sample materials documenting the State's Statewide public information and awareness campaign;

(B) A description and sample materials documenting activities designed to reduce the incidence of alcohol-impaired driving by young drivers, which must involve at least one of the four components contained in paragraph (f)(1)(ii) of this section; and

(C) A plan that outlines proposed efforts to involve in these activities all four components contained in paragraph (f)(1)(ii) of this section.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit:

(A) An updated description of its Statewide public information and awareness campaign;

(B) A description and sample materials documenting activities designed to reduce the incidence of alcohol-impaired driving by young drivers, which must involve:

(1) At least two of the four components contained in paragraph (f)(1)(ii) of this section in the second fiscal year the State receives Section 410 funds based on this criterion;

(2) At least three of the four components contained in paragraph (f)(1)(ii) of this section in the third fiscal year the State receives Section 410 funds based on this criterion; and

(3) All four components contained in paragraph (f)(1)(ii) of this section in the fourth or subsequent fiscal year the State receives Section 410 funds based on this criterion; and

(C) An updated plan that outlines proposed efforts to involve all four components contained in paragraph (f)(1)(ii) of this section, until the State's activities involve all four components.

(g) *Testing for BAC*—(1) *Criterion*. (i) In FY 1999 and FY 2000, an effective system for increasing the percentage of BAC testing among drivers involved in fatal motor vehicle crashes, under which:

(A) *BAC testing law*. The State's law provides for mandatory BAC testing for any driver involved in a fatal motor vehicle crash;

(B) *BAC testing data*. The State's percentage of BAC testing among drivers involved in fatal motor vehicle crashes is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought.

(C) *BAC testing symposium*. The State has plans to conduct, or conducted no more than two years prior to the date of its application, a symposium or workshop designed to increase the percentage of BAC testing for drivers involved in fatal motor vehicle crashes. The symposium or workshop must be attended by law enforcement officials,

prosecutors, hospital officials, medical examiners, coroners, physicians, and judges; and must address the medical, ethical, and legal impediments to increasing the percentage of BAC testing among drivers involved in fatal motor vehicle crashes.

(ii) In FY 2001 and each subsequent fiscal year, a percentage of BAC testing among drivers involved in fatal motor vehicle crashes that is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought.

(2) *Definitions*—(i) *Drivers involved in fatal motor vehicle crashes* includes both drivers who are fatally injured in motor vehicle crashes and drivers who survive a motor vehicle crash in which someone else is killed.

(ii) *Mandatory BAC testing* means a law enforcement officer must request each driver involved in a fatal motor vehicle crash to submit to BAC testing.

(3) *Demonstrating compliance in FY 1999 and FY 2000*. (i) To demonstrate compliance based on this criterion in FY 1999 or FY 2000, the State shall submit:

(A) A copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of the mandatory BAC testing requirement, as provided in paragraph (g)(1)(i)(A) of this section;

(B) A statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought; or

(C) A description of the planned or completed symposium or workshop, including a copy of the actual or proposed agenda and a list of the names and affiliations of the individuals who attended or who are expected to be invited to attend, except as provided in paragraph (g)(3)(ii)(C).

(ii) To demonstrate compliance in FY 2000:

(A) If in the first fiscal year the State demonstrated compliance under

paragraph (g)(3)(i)(A), the State may submit instead a copy of any changes to the State's law, regulation or binding policy directive or, if there have been no changes, the State shall submit a statement certifying that there have been no changes in the States laws, regulations or binding policy directives.

(B) If in the first fiscal year the State demonstrated compliance under paragraph (g)(3)(i)(B), the State may submit instead a statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State continues to be equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought.

(C) If in the first fiscal year the State demonstrated compliance under paragraph (g)(3)(i)(C), the State shall submit instead a copy of the report or other documentation that was generated as a result of the symposium or workshop, with recommendations designed to increase BAC testing for drivers involved in fatal motor vehicle crashes, and a plan that outlines how the recommendations will be implemented in the State.

(4) Demonstrating compliance beginning in FY 2001. To demonstrate compliance for a grant based on this criterion in FY 2001 or any subsequent fiscal year, the State shall submit a statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State is equal to or greater than the national average, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought.

[63 FR 71700, Dec. 29, 1998, as amended at 65 FR 46355, July 28, 2000]

§ 1313.6 Requirements for a performance basic grant.

(a) *Criterion.* A State will qualify for a performance basic incentive grant of 25 percent of the State's 23 U.S.C. 402 apportionment for FY 1997 if:

(1) The percentage of fatally injured drivers in the State with a BAC of 0.10 percent or greater has decreased in each of the three most recent calendar

years for which statistics for determining such percentages are available as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought; and

(2) The percentage of fatally injured drivers in the State with a BAC of 0.10 percent or greater has been lower than the average percentage for all States in each of the same three calendar years.

(b) *Calculating percentages.* (1) The percentage of fatally injured drivers with a BAC of 0.10 percent or greater in each State is calculated by NHTSA for each calendar year, using the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought and NHTSA's method for estimating alcohol involvement.

(2) The average percentage of fatally injured drivers with a BAC of 0.10 percent or greater for all States is calculated by NHTSA for each calendar year, using the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought and NHTSA's method for estimating alcohol involvement.

(3) Any State with a percentage of BAC testing among fatally injured drivers of 85 percent or greater in each of the three most recent calendar years, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought, may calculate for submission to NHTSA the percentage of fatally injured drivers with a BAC of 0.10 percent or greater in that State for those calendar years, using State data.

(c) *Demonstrating compliance.* (1) To demonstrate compliance with this criterion, a State shall submit a statement certifying that the State meets each element of this criterion, based on the percentages calculated in accordance with paragraphs (b)(1) and (b)(2) of this section.

(2) Alternatively, a State with a percentage of BAC testing among fatally injured drivers of 85 percent or greater, as determined by the most recently available final FARS data as of August 1 of the fiscal year for which grant funds are being sought, may demonstrate compliance with this criterion

by submitting its calculations developed under paragraph (b)(3) of this section and a statement certifying that the State meets each element of this criterion, based on the percentages calculated in accordance with paragraphs (b)(2) and (b)(3) of this section.

[63 FR 71700, Dec. 29, 1998, as amended at 65 FR 46356, July 28, 2000]

§ 1313.7 Requirements for a supplemental grant.

To qualify for a supplemental grant under this section, a State must qualify for a programmatic basic grant under § 1313.5, a performance basic grant under § 1313.6, or both, and meet one or more of the following criteria:

(a) *Video equipment program*—(1) *Criterion*. A program:

(i) To acquire video equipment to be installed in law enforcement vehicles and used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance;

(ii) To effectively prosecute those persons; and

(iii) To train personnel in the use of that equipment.

(2) *Demonstrating compliance*. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a plan for the acquisition and use of video equipment in law enforcement vehicles for the enforcement of impaired driving laws, including:

(A) A schedule for the areas where the equipment has been and will be installed and used;

(B) A plan for training law enforcement personnel, prosecutors and judges in the use of this equipment; and

(C) A plan for public information and education programs to enhance the general deterrent effect of the equipment.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit information on the use and effectiveness of the equipment and an updated plan for any acquisition and use of additional equipment.

(b) *Self-sustaining drunk driving prevention program*—(1) *Criterion*. A self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected

from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to communities with comprehensive programs for the prevention of such operations of motor vehicles.

(2) *Definitions*—(i) A *comprehensive drunk driving prevention program* means a program that includes, as a minimum, the following components:

(A) Regularly conducted, peak-hour traffic enforcement efforts directed at impaired driving;

(B) Prosecution, adjudication and sanctioning resources are adequate to handle increased levels of arrests for operating a motor vehicle while under the influence of alcohol;

(C) Other programs directed at prevention other than enforcement and adjudication activities, such as school, worksite or community education; server training; or treatment programs; and

(D) A public information program designed to make the public aware of the problem of impaired driving and of the efforts in place to address it.

(ii) *Fines or surcharges collected* means fines, penalties, fees or additional assessments collected.

(3) *Demonstrating compliance*. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, a State shall submit:

(A) A copy of the law, regulation or biding policy directive implementing or interpreting the law or regulation, which provides:

(1) For fines or surcharges to be imposed on individuals apprehended for operating a motor vehicle while under the influence of alcohol; and

(2) For such fines or surcharges collected to be returned to communities with comprehensive drunk driving prevention programs; and

(B) Statewide data (or a representative sample) showing:

(1) The aggregate amount of fines or surcharges collected;

(2) The aggregate amount of revenues returned to communities with comprehensive drunk driving prevention programs under the State's self-sustaining system; and

(3) The aggregate cost of the State's comprehensive drunk driving prevention programs.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit, in addition to the data identified in paragraph (b)(3)(i)(B) of this section, a copy of any changes to the State's law, regulation or binding policy directive or, if there have been no changes, the State shall submit a statement certifying that there have been no changes in the State's laws, regulations or binding policy directives.

(c) *Reduction of driving with a suspended license*—(1) *Criterion*. A law to reduce driving with a suspended driver's license. The law must impose one of the following sanctions on any individual who has been convicted of driving with a driver's license that was suspended or revoked by reason of a conviction for an alcohol-related traffic offense. Such sanctions must include at least one of the following for some period of time during the term of the individual's driver's license suspension or revocation, as specified by the State:

(i) The suspension of the registration of, and the return to such State of the license plates for, any motor vehicle owned by the individual;

(ii) The impoundment, immobilization, forfeiture or confiscation of any motor vehicle owned by the individual; or

(iii) The placement of a distinctive license plate on any motor vehicle owned by the individual.

(2) *Definitions*. *Suspension and return* means the temporary debarring of the privilege to operate or maintain a particular registered motor vehicle on the public highways and the confiscation or impoundment of the motor vehicle's license plates.

(3) *Exceptions*. (i) A State may provide limited exceptions to the sanctions listed in paragraphs (c)(1)(i) and (c)(1)(ii) of this section on an individual basis, to avoid undue hardship to any individual who is completely dependent on the motor vehicle for the necessities of life, including any family member of the convicted individual, and any co-owner of the motor vehicle, but not including the offender.

(ii) Such exceptions may be issued only in accordance with a State law, regulation or binding policy directive establishing the conditions under which motor vehicles or license plates may be released by the State or under Statewide published guidelines and in exceptional circumstances specific to the offender's motor vehicle, and may not result in the unrestricted use of the motor vehicle by the individual.

(4) *Demonstrating compliance*. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of this criterion.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit a copy of any changes to the State's law, regulation or binding policy directive or, if there have been no changes, the State shall submit a statement certifying that there have been no changes in the State's laws, regulations or binding policy directives.

(d) *Passive alcohol sensor program*—(1) *Criterion*. A program:

(i) To acquire passive alcohol sensors to be used during enforcement activities to enhance the detection of the presence of alcohol in the breath of drivers; and

(ii) To train law enforcement personnel and inform judges and prosecutors about the purpose and use of the equipment.

(2) *Definitions*. *Passive alcohol sensor* means a screening device used to sample the ambient air in the vicinity of the driver's exhaled breath to determine whether or not it contains alcohol.

(3) *Demonstrating compliance*. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a plan for the acquisition and use of passive alcohol sensors to enhance the enforcement of impaired driving laws, including:

(A) A schedule for the areas where the equipment has been and will be used;

(B) A plan for training law enforcement personnel in the recommended procedures for use of these devices in the field, and for informing prosecutors and judges about the purpose and use of the equipment; and

(C) A plan for public information and education programs to enhance the general deterrent effect of the equipment.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit information on the use and effectiveness of the equipment and an updated plan for any acquisition and use of additional equipment.

(e) *Effective DWI tracking system*—(1) *Criterion*. An effective driving while intoxicated (DWI) tracking system containing the ability to:

(i) Collect, store, and retrieve data on individual DWI cases from arrest, through case prosecution and court disposition and sanction (including fines assessed and paid), until dismissal or until all applicable sanctions have been completed;

(ii) Link the DWI tracking system to appropriate data and traffic records systems in jurisdictions and offices within the State to provide prosecutors, judges, law enforcement officers, motor vehicle administration personnel, and other officials with timely and accurate information concerning individuals charged with an alcohol-related driving offense; and

(iii) Provide aggregate data, organized by specific categories (geographic locations, demographic groups, sanctions, etc.), suitable for allowing legislators, policymakers, treatment professionals, and other State officials to evaluate the DWI environment in the State.

(2) *Demonstrating compliance*. (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a description of its DWI tracking system, including:

(A) A description of the means used for the collection, storage and retrieval of data;

(B) An explanation of how the system is linked to data and traffic records systems in appropriate jurisdictions and offices within the State;

(C) An example of available statistical reports and analyses; and

(D) A sample data run showing tracking of a DWI arrest through final disposition.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit a report or analysis using the DWI tracking system data, demonstrating that the system is still in operation.

(f) *Other innovative programs*—(1) *Criterion*. An innovative program to reduce traffic safety problems resulting from individuals operating motor vehicles while under the influence of alcohol or controlled substances, through legal judicial, enforcement, educational, technological or other approaches. The program must:

(i) Have been implemented within the last two years;

(ii) Contain one or more substantial components that:

(A) Make this program different from programs previously conducted in the State; and

(B) Have not been used by the State to qualify for a grant in a previous fiscal year based on this criterion or in any fiscal year based on any other criterion contained in §§ 1313.5, 1313.6 or 1313.7 of this part; and

(iii) Be shown to have been effective.

(2) *Demonstrating compliance*. To demonstrate compliance for a grant based on this criterion, the State shall submit a description of the innovative program, which includes:

(i) The name of the program;

(ii) The area or jurisdiction where it has been implemented and the population(s) targeted;

(iii) The specific condition or problem the program was intended to address, the goals and objectives of the program and the strategies or means used to achieve those goals;

(iv) The actual results of the program and the means used to measure the results;

(v) All sources of funds that were applied to the problem; and

(vi) The name, address and telephone number of a contact person.

§ 1313.8 Award procedures.

(a) In each Federal fiscal year, grants will be made to eligible States upon

submission and approval of the application required by §1313.4(a) and subject to the limitations in §1313.4(b). The release of grant funds under this part shall be subject to the availability of funding for that fiscal year. If there are expected to be insufficient funds to award full grant amounts to all eligible States in any fiscal year, NHTSA may release less than the full grant amounts upon initial approval of the State's application and documentation and the remainder of the full grant amounts up to the State's proportionate share of available funds, before the end of that fiscal year. Project approval, and the contractual obligation of the Federal government to provide grant funds, shall be limited to the amount of funds released.

(b) If any amounts authorized for grants under this part for a fiscal year are expected to remain unobligated in that fiscal year, the Administrator may transfer such amounts to the programs authorized under 23 U.S.C. 405 and 23 U.S.C. 411, to ensure to the extent possible that each State receives the maximum incentive funding for which it is eligible.

(c) If any amounts authorized for grants under 23 U.S.C. 405 and 23 U.S.C. 411 are transferred to the grant program under this part in a fiscal year, the Administrator shall distribute the transferred amounts so that each eligible State receives a proportionate share of these amounts, subject to the conditions specified in §1313.4.

APPENDIX A TO PART 1313—TAMPER RESISTANT DRIVER'S LICENSE

A tamper resistant driver's license or permit is a driver's license or permit that has one or more of the following security features:

- (1) Ghost image.
- (2) Ghost graphic.
- (3) Hologram.
- (4) Optical variable device.
- (5) Microline printing.
- (6) State seal or a signature which overlaps the individual's photograph or information.
- (7) Security laminate.
- (8) Background containing color, pattern, line or design.
- (9) Rainbow printing.
- (10) Guilloche pattern or design.
- (11) Opacity mark.
- (12) Out of gamut colors (*i.e.*, pastel print).

- (13) Optical variable ultra-high-resolution lines.
- (14) Block graphics.
- (15) Security fonts and graphics with known hidden flaws.
- (16) Card stock, layer with colors.
- (17) Micro-graphics.
- (18) Retroflective security logos.
- (19) Machine readable technologies such as magnetic strips, a 1D bar code or a 2D bar code.

PART 1327—PROCEDURES FOR PARTICIPATING IN AND RECEIVING INFORMATION FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM

Sec.

- 1327.1 Scope.
- 1327.2 Purpose.
- 1327.3 Definitions.
- 1327.4 Certification, termination and reinstatement procedures.
- 1327.5 Conditions for becoming a participating State.
- 1327.6 Conditions and procedures for other authorized users of the NDR.
- 1327.7 Procedures for NDR information requests.

APPENDIX A TO PART 1327—ABRIDGED LISTING OF THE AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS VIOLATIONS EXCHANGE CODE, USED BY THE NDR FOR RECORDING DRIVER LICENSE DENIALS AND WITHDRAWALS

APPENDIX B TO PART 1327—OMB CLEARANCE

AUTHORITY: Pub.L. 97-364, 96 Stat. 1740, as amended (49 U.S.C. 30301 *et seq.*); delegation of authority at 49 CFR 1.50.

SOURCE: 56 FR 41403, Aug. 20, 1991, unless otherwise noted.

§ 1327.1 Scope.

This part provides procedures for States to participate in the National Driver Register (NDR) Problem Driver Pointer System (PDPS) and for other authorized parties to receive information from the NDR. It includes, in accordance with section 204(c) of the NDR Act of 1982 (Pub. L. 97-364), procedures for a State to notify the Secretary of Transportation of its intention to be bound by the requirements of section 205 of the Act (*i.e.*, requirements for reporting by chief driver licensing officials) and for a State to notify the Secretary in the event it becomes necessary to withdraw from participation.

The rule also contains the conditions for becoming a participating State as well as conditions and procedures for other authorized users of the NDR.

§ 1327.2 Purpose.

The purpose of this part is to implement the NDR Act of 1982, as amended.

§ 1327.3 Definitions.

(a) *Any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve* includes a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard.

(b) *Driver History Record* means a detailed description of an individual's driver record, used in the American Association of Motor Vehicle Administrators' Commercial Driver's License Information System (CDLIS).

(c) *Driver Improvement Purposes* means information requests made by chief driver licensing officials in connection with the control and rehabilitation of drivers who are, based on their records, suspected of being or known to be problem drivers.

(d) *Driver License Abstract* means the complete driver history of a driver's convictions, revocations, suspensions, denials, cancellations, accidents and interactions with the driver control and driver improvement authorities. Also known as Motor Vehicle Record (MVR) or Transcript.

(e) *Driver Licensing Purposes* means information requests made by chief driver licensing officials to determine if individuals applying for original, renewal, temporary, or duplicate licenses have had their driving privileges withdrawn in some other State.

(f) *Driver Status Response* means a response which indicates whether a driver currently holds a valid license.

(g) *For Cause* as used in § 1327.5(a) means that an adverse action taken by a State against an individual was based on any violation listed in Appendix A, an Abridged Listing of the American Association of Motor Vehicle Administration (AAMVA) Violations Exchange Code, which is used by the NDR for recording license denials and withdrawals.

(h) *Fully Electronic Register System* means an NDR system in which all States that are participating in the NDR have been certified by the agency as participating States.

(i) *Interactive Communication* means an active two-way computer connection which allows requesters to receive a response from the NDR almost immediately.

(j) *Match* means the occurrence when the personal identifying information in an inquiry compares with the personal identifying information on a record in the NDR file such that there is a high probability that the individual identified on both records is the same person. See Probable Identification.

(k) *Non-Minimum Age Driver License Applicant* means a driver license applicant who is past the minimum age to apply for a license in the State making an NDR inquiry.

(l) *Non-PDPS State* means a State which operates under the old NDR by submitting complete substantive adverse driver licensing data to the NDR.

(m) *Participating State* means a State that has notified the agency of its intention to participate in the PDPS and has been certified by the agency as being in compliance with the requirements of the NDR Act of 1982 and § 1327.5 of this part.

(n) *Pointer Record* means a report containing the following data:

(1) The legal name, date of birth (including month, day, and year), sex, (and if the State collects such data) height, weight, and color of eyes;

(2) The name of the State transmitting such information; and

(3) The social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number).

(o) *Probable Identification* means the occurrence when the personal identifying information in an inquiry compares with the identifying information on a record in the NDR file such that there is a high probability that the individual identified on both records is the same person. See Match.

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(p) *Problem Driver Pointer System (PDPS)* means a system whereby the NDR causes information regarding the motor vehicle driving records of individuals to be exchanged between the State which took adverse action against a driver (State of Record) and the State requesting the information (State of Inquiry).

(q) *PDPS State* means a State which participates in the PDPS by submitting pointer records for inclusion in the NDR file and by providing information to States of Inquiry as a State of Record.

(r) *Rapid Response System* means an interactive inquiry capability of the NDR system used by non-PDPS States.

(s) *Remote Job Entry* means an automated communication method in which information is transmitted in batches (usually a large number of records) and responses are also transmitted in batches, all within a 24-hour period.

(t) *State of Inquiry* means the State submitting an inquiry to the NDR to determine if it contains information regarding a driver license applicant.

(u) *State of Record* means the State which took an adverse action against a driver and transmitted identification data regarding the driver to the NDR, in accordance with §1327.5(a) of this part.

(v) *Substantive Adverse Action Data*, *substantive adverse driver licensing data* and *substantive data* mean data which give the details regarding a State's revocation, suspension, denial or cancellation of a driver's license, or the conviction of a driver, such as date, reason, eligible/restoration date, etc.

(w) *Transportation Safety Purposes* means information requests submitted on behalf of other parties authorized by the NDR Act of 1982, as amended, to receive NDR information.

(x) *Transition Period* means the period which began on July 11, 1985 and will continue until a fully electronic register system is established, but not later than April 30, 1995.

[56 FR 41403, Aug. 20, 1991, as amended at 62 FR 63657, Dec. 2, 1997]

§ 1327.4 Certification, termination and reinstatement procedures.

(a) *Certification requirement.* Only States that have been certified by NHTSA as participating States under PDPS may participate in the NDR. NHTSA will remove all records on file and will not accept any inquiries or reports from a State that has not been certified as a participating State.

(b) *Termination or cancellation.* (1) If a State finds it necessary to discontinue participation, the chief driver licensing official of the participating State shall notify NHTSA in writing, providing the reason for terminating its participation.

(2) The effective date of termination will be no less than 30 days after notification of termination.

(3) NHTSA will notify any participating State that changes its operations such that it no longer meets statutory and regulatory requirements, that its certification to participate in the NDR will be withdrawn if it does not come back into compliance within 30 days from the date of notification.

(4) If a participating State does not come back into compliance with statutory and regulatory requirements within the 30-day period, NHTSA will send a letter to the chief driver licensing official cancelling its certification to participate in the NDR.

(5) NHTSA will remove all records on file and will not accept any inquiries or reports from a State whose participation in the NDR has been terminated or cancelled.

(6) To be reinstated as a participating State after being terminated or cancelled, the chief driver licensing official shall follow the notification procedures in paragraphs (c)(1) and (3) of this section and must be re-certified by NHTSA as a participating State under PDPS, upon a determination by NHTSA that the State complies with the statutory and regulatory requirements for participation, in accordance with paragraphs (c)(2) and (4) of this section.

(c) *Reinstatement.* (1) The chief driver licensing official of a State that wishes to be reinstated as a participating State in the NDR under the PDPS, shall send a letter to NHTSA certifying that the State wishes to be reinstated

as a participating State and that it intends to be bound by the requirements of section 205 of the NDR Act of 1982 and § 1327.5 of this part. It shall also describe the changes necessary to meet the statutory and regulatory requirements of PDPS.

(2) Within 20 days after receipt of the State's notification, NHTSA will acknowledge receipt of the State's certification to be reinstated.

(3) The chief driver licensing official of a State that has notified NHTSA of its intention to be reinstated as a participating State will, at such time as it has completed all changes necessary to meet the statutory and regulatory requirements of PDPS, certify this fact to the agency.

(4) Upon receipt, review and approval of certification from the State, NHTSA will recertify the State as a participating State under PDPS.

[65 FR 45716, July 25, 2000]

§ 1327.5 Conditions for becoming a participating State.

(a) *Reporting requirements.* (1) The chief driver licensing official in each participating State shall transmit to the NDR a report regarding any individual—

(i) Who is denied a motor vehicle operator's license by such State for cause;

(ii) Whose motor vehicle operator's license is canceled, revoked, or suspended by such State for cause; or

(iii) Who is convicted under the laws of such State of the following motor vehicle-related offenses or comparable offenses—

(A) Operation of a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance;

(B) A traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways;

(C) Failure to render aid or provide identification when involved in an accident which results in a fatality or personal injury; or

(D) Perjury or the knowledgeable making of a false affidavit or statement to officials in connection with activities governed by a law or regulation

relating to the operation of a motor vehicle.

(2) Any report regarding any individual which is transmitted by a chief driver licensing official pursuant to this requirement shall contain the following data:

(i) The legal name, date of birth (including day, month, and year), sex, (and if the State collects such data) height, weight, and color of eyes;

(ii) The name of the State transmitting such information; and

(iii) The social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number); except that

(iv) Any report concerning an occurrence identified in paragraph (a)(1) of this section which occurs during the two-year period preceding the date on which such State becomes a participating State shall be sufficient if it contains all such information as is available to the chief driver licensing official on such date.

(3) These records, defined as pointer records, shall be transmitted by the chief driver licensing official to the NDR not later than 31 days after the adverse action information is received by the motor vehicle department or 6 months after the date on which such State becomes a participating State.

(4) No State will be required to report information concerning an occurrence which happened before the two-year period preceding the date on which the State becomes a participating State.

(b) *State of inquiry function for driver licensing and driver improvement purposes.* (1) The chief driver licensing official of a participating State shall submit an inquiry to the NDR for each first-time, non-minimum age driver license applicant before issuing a license to the applicant.

(2) The chief driver licensing official of a participating State may submit inquiries for other driver licensing and driver improvement purposes.

(c) *State of inquiry function for transportation safety purposes (on behalf of other authorized users).* The chief driver licensing official of a participating

State shall provide for and establish routine procedures and forms to accept requests for NDR file checks from the following groups which are authorized to receive information from the NDR file through participating States:

(1) National Transportation Safety Board (NTSB) and Federal Highway Administration (FHWA) for accident investigation purposes. The Chairman of the NTSB and/or the Administrator of the FHWA shall submit requests for NDR searches in writing through the participating State with which previous arrangements have been made to process these requests. The chief driver licensing official shall provide to the requesting agency the NDR response indicating either Probable Identification (match) or No Record Found. In the case of a probable identification, the State of Record will also be identified in the response so that the NTSB or FHWA may obtain additional information regarding the individual's driving record.

(2) Employers and Prospective Employers of individuals licensed to drive a motor vehicle in the State (including Federal Agencies); Federal Aviation Administration regarding any individual who has applied for or received an airman's certificate; the Federal Railroad Administration and employers/prospective employers regarding individuals who are employed or seeking employment as railroad locomotive operators; and the U.S. Coast Guard regarding any individual who holds or who has applied for a license or certificate of registry under section 7101 of title 46 of the U.S. Code, or a merchant mariner's document under section 7302 of that title, or regarding any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve. Information may not be obtained from the National Driver Register under this paragraph (c) if the information was entered in the Register more than three years before the date of the request unless the information is about a revocation or suspension still in effect on the date of the request.

(i) The procedures or forms developed by the chief driver licensing official to facilitate NDR searches for these authorized users shall provide for the request to be made by the individual or

by the authorized user if the individual first consented to the search in writing. Any request to the chief driver licensing official and any written consent by the individual shall:

(A) State that NDR records are to be released;

(B) Specifically state who is authorized to receive the records;

(C) Be signed and dated by the individual or the individual's legal representative;

(D) Specifically state that the authorization is valid for only one search of the NDR; and

(E) Specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

(ii) Any request made by an authorized user may include, in lieu of the actual information described in paragraphs (c)(2)(i) (C) through (E) of this section, a certification that a written consent was signed and dated by the individual or the individual's legal representative, specifically stated that the authorization is valid for only one search of the NDR, and specifically stated that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

(iii) The chief driver licensing official shall provide to the authorized user a response indicating either Probable Identification (match) or No Record Found. In the case of probable identification, the State of Record will also be included in the response so that the authorized user may obtain additional information regarding the individual's driving record.

(3) The head of a Federal department or agency that issues motor vehicle operator's licenses about an individual

applicant for a motor vehicle operator's license from such department or agency. The head of the department or agency may request NDR information through the chief driver licensing official of a State and may receive the information, provided the requesting Federal department or agency participates in the NDR as a reporting agency.

(i) A reporting agency is an agency that transmits to the NDR a report regarding any individual who has been denied a motor vehicle operator's license for cause; whose motor vehicle operator's license is revoked, suspended, or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle related offenses listed in paragraph (a)(1)(iii) of this section and Appendix A to this part and over whom the department or agency has licensing authority.

(ii) All reports transmitted by a reporting agency shall contain the following data:

(A) The legal name, date of birth (including day, month, and year), sex, and, if available to the agency, height, weight, and eye color;

(B) The name of the agency transmitting such information; and

(C) The social security account number, if used by the reporting agency for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number); except that

(D) Any report concerning an occurrence identified in paragraph (c)(3)(i) of this section which occurs during the two-year period preceding the date on which the agency becomes a participating agency shall be sufficient if it contains all such information as is available to the agency on such date.

(4) Individuals who wish to learn what information about themselves, if any, is in the NDR file, or whether and to whom such information has been disclosed.

(i) Upon receiving a request for an NDR search from an individual for information concerning himself or herself, the chief driver licensing official

shall inform the individual of the procedure for conducting such a search and provide the individual a request form which, when properly completed, will be forwarded to the NDR either by the chief driver licensing official or by the individual.

(ii) The request form provided by the chief driver licensing official to the individual must provide for the following:

(A) Full legal name;

(B) Other names used (nicknames, professional name, maiden name, etc.);

(C) Month, day and year of birth;

(D) Sex;

(E) Height;

(F) Weight;

(G) Color of eyes;

(H) Social Security Number (SSN) and/or driver license number (provision of SSN is voluntary);

(I) Individual's full address;

(J) Home and office telephone number (provision of telephone number is voluntary);

(K) Signature;

(L) Proof of identification—Acceptable forms of identification are driver's license, birth certificate, credit card, employee identification card, and other forms of identification normally accepted by the State; and

(M) Notarization—This is required only if the individual chooses to mail the request directly to the NDR.

(iii) Upon receipt of the individual's request for a NDR file check, NHTSA will search its computer file and mail the results (*i.e.*, notification of no record found or copies of any records found) directly to the individual.

(iv) The chief driver licensing official shall advise the requesting individual to contact the Chief, National Driver Register by mail or telephone for guidance regarding the procedure for alteration or correction of NDR-maintained records in the event he or she believes they are incorrect.

(d) *State of record functions.* The chief driver licensing official of a participating State shall implement the necessary computer system and procedures to respond to requests for driver record information. When a request to the NDR results in a match, the chief driver licensing official of a participating State shall also:

(1) Provide a driver status response interactively to the State of Inquiry or the NDR upon receipt of a request for this response from the NDR;

(2) Provide a Driver History Record from its file to the State of Inquiry upon receipt of a request for this record from the State of Inquiry; and

(3) Forward a driver license abstract (full motor vehicle record) to the State of Inquiry upon receipt of a request for this record either from the NDR or directly from the State of Inquiry, and to other authorized users upon receipt of a request directly from the user.

[56 FR 41403, Aug. 20, 1991, as amended at 62 FR 63657, Dec. 2, 1997; 64 FR 19271, Apr. 20, 1999]

§ 1327.6 Conditions and procedures for other authorized users of the NDR.

(a) *NTSB and FHWA.* To initiate an NDR file check before a fully electronic Register system has been established, the National Transportation Safety Board or the Federal Highway Administration (Office of Motor Carriers) shall submit a request for such check to the State with which previous arrangements have been made, in accordance with procedures established by that State for this purpose. To initiate an NDR file check once a fully electronic Register system has been established, the NTSB or FHWA shall submit a request for such check to the participating State with which previous arrangements have been made, in accordance with procedures established by that State for this purpose. The NTSB or FHWA may also submit a request for an NDR file check to the NDR directly.

(b) *Federal departments or agencies that issue motor vehicle operator's licenses.* To initiate an NDR file check, a Federal department or agency that issues motor vehicle operator's licenses shall submit a request for such check to a participating State, in accordance with procedures established by that State for this purpose. The Federal department or agency that issues motor vehicle operator's licenses may also submit a request for an NDR file check to the NDR directly, in accordance with procedures established by the NDR for that purpose.

(c) *Employers or prospective employers of motor vehicle operators (including Federal Agencies).* (1) To initiate an NDR file check, the individual who is employed or seeking employment as a motor vehicle operator shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the employer/prospective employer shall make the information available to the employee/prospective employee.

(3) In the case of a match (probable identification), the employer/prospective employer should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the employee/prospective employee before using the information as the basis for any action against the individual.

(d) *Federal Aviation Administration.* (1) To initiate an NDR file check, the individual who has applied for or received an airman's certificate shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the FAA shall make the information available to the airman for review and written comment.

(3) In the case of a match (probable identification), the FAA should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the airman concerned before using the information as the basis of any action against the individual.

(e) *Federal Railroad Administration and/or employers or prospective employers of railroad locomotive operators.* (1) To initiate an NDR file check, the individual employed or seeking employment as a locomotive operator shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the FRA or the employer/prospective employer, as applicable, shall make the information available to the individual.

(3) In the case of a match (probable identification), the FRA or the employer/prospective employer, as applicable, should obtain the substantive data relating to the record from the State of Record and verify that the

person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(f) *U.S. Coast Guard.* (1) To initiate an NDR file check, the individual who holds or who has applied for a license, certificate of registry, or a merchant mariner's document or the officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the U.S. Coast Guard shall make the information available to the individual for review and written comment before denying, suspending or revoking the license, certificate of registry, or merchant mariner's document of the individual based on that information and before using that information in any action taken under chapter 77 of title 46, U.S. Code.

(3) In the case of a match (probable identification), the U.S. Coast Guard should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(g) *Air carriers.* (1) To initiate an NDR file check, the individual seeking employment as a pilot with an air carrier shall follow the procedures specified in § 1327.7 and also must specifically state that, pursuant to Section 502 of the Pilot Records Improvement Act of 1996, Public Law 104-264, 110 Stat. 3259 (49 U.S.C. 30305), the request (or written consent) serves as notice of a request for NDR information concerning the individual's motor vehicle driving record and of the individual's right to receive a copy of such information.

(2) Air carriers that maintain, or request and receive NDR information about an individual must provide the individual a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

(3) In the case of a match (probable identification), the air carrier should obtain the substantive data relating to

the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(h) *Third Parties.* If a third party is used by any of the above authorized users to request the NDR check, both the individual concerned and an authorized representative of the authorized user organization shall sign a written consent authorizing the third party to act in this role. The written consent must:

(1) State that NDR records are to be released;

(2) State as specifically as possible who is authorized to request the records, and that such party is not authorized to receive NDR information;

(3) Be signed and dated by the individual (or legal representative as appropriate) and an authorized representative of the authorized user organization;

(4) Specifically state that the request authorization is valid for only one search of the NDR; and

(5) Specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy. The third party may not, however, receive the NDR response to a file search.

(i) *Individuals.* (1) When a check of the NDR is desired by any individual in order to determine whether the NDR is disclosing any data regarding him or her or the accuracy of such data, or to obtain a copy of the data regarding him or her, the individual shall submit his or her request to a participating State in accordance with the procedures established by that State for this purpose.

(2) The individual will be asked to provide the following information to the chief driver licensing official in order to establish positive identification:

(i) Full legal name;

- (ii) Other names used (nickname, professional name, maiden name, etc.);
- (iii) Month, day and year of birth;
- (iv) Sex;
- (v) Height;
- (vi) Weight;
- (vii) Color of eyes;
- (viii) Driver license number and/or Social Security Number (SSN) (provision of SSN is optional);
- (ix) Full address;
- (x) Signature;
- (xi) Proof of identification (acceptable forms of identification are driver's license, birth certificate, credit card, employee identification card, and other forms of identification normally accepted by the State); and
- (xii) Notarization (this is required only if the individual chooses to mail the request directly to the NDR).

(3) Individuals are authorized also, under the Privacy Act of 1974, to request such information directly from the NDR.

(4) Individuals seeking to correct an NDR-maintained record should address their request to the chief of the National Driver Register. When any information contained in the Register is confirmed by the State of Record to be in error, the NDR will correct the record accordingly and advise all previous recipients of the information that a correction has been made.

[56 FR 41403, Aug. 20, 1991; 56 FR 57255, 57374, Nov. 8, 1991; 62 FR 27195, May 19, 1997; 62 FR 63657, Dec. 2, 1997; 63 FR 153, Jan. 5, 1998; 64 FR 19272, Apr. 20, 1999]

§ 1327.7 Procedures for NDR information requests.

(a) To initiate an NDR file check, an individual who is employed or seeking employment as a motor vehicle operator; who has applied for or received an airman's certificate; who is employed or seeking employment as a locomotive operator; who holds or has applied for a license, certificate of registry, or a merchant mariner's document or is an officer, chief warrant officer, or enlisted member of the U.S. Coast Guard or Coast Guard Reserve; or who is seeking employment as a pilot with an air carrier; shall either:

(1) Complete, sign and submit a request for an NDR file check directly to the chief driver licensing official of a

participating State in accordance with procedures established by that State for this purpose; or

(2) Authorize, by completing and signing a written consent, the authorized NDR user to request a file check through the chief driver licensing official of a participating State in accordance with the procedures established by that State for this purpose.

(b) If the authorized NDR user is an employer or prospective employer of a motor vehicle operator, the request for an NDR file check must be submitted through the chief driver licensing official of the State in which the individual is licensed to operate a motor vehicle.

(c) If the authorized NDR user is the head of a Federal department or agency, the request for an NDR file check may be submitted instead directly to the NDR in accordance with procedures established by the NDR for this purpose.

(d) The request for an NDR file check or the written consent, whichever is used, must:

(1) State that the NDR records are to be released;

(2) State as specifically as possible who is authorized to receive the records;

(3) Be signed and dated by the individual (or the individual's legal representative as appropriate);

(4) Specifically state that the authorization is valid for only one search of the NDR; and

(5) Specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the employer/prospective employer verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

[64 FR 19273, Apr. 20, 1999]

APPENDIX A TO PART 1327—ABRIDGED
LISTING OF THE AMERICAN ASSOCIATION
OF MOTOR VEHICLE ADMINISTRATORS
VIOLATIONS EXCHANGE CODE, USED BY THE
NDR FOR RECORDING DRIVER LICENSE
DENIALS AND WITHDRAWALS

Code

DI Driving While Intoxicated Violations Pertaining to Intoxicants
DI1 Driving while under the intoxicating influence of alcohol, narcotics, or pathogenic drugs.
DI2 Driving while under the intoxicating influence of medication or other substances not intended to produce intoxication as a result of normal use.
DI3 Refusal to submit to test for alcohol after arrest for driving while intoxicated or suspicion of intoxication.
DI4 Illegal possession of alcohol or drugs in motor vehicle.
DI5* Administrative *per se*.
DI6* Driving while impaired.
DI7* Driving a commercial motor vehicle while under the influence of alcohol or a controlled substance.
DS Disability
DS1 Inability to pass one or more tests required for driver license.
DS2 Operating a motor vehicle improperly because of physical or mental disability.
DS3 Failure to discontinue operating vehicle after onset of physical or mental disability (including uncontrollable drowsiness).
FA Fatality
FA1 Violation of a motor vehicle law resulting in the death of another person.
FE Felony
FE1 Using a motor vehicle as the device for committing a felony.
FE2 Using a motor vehicle in connection with a felony.
FE3 Using a motor vehicle to aid and abet a felon.
FE4* Using a commercial motor vehicle in the commission of a felony.
FE5* Using a commercial motor vehicle in the commission of a felony while transporting a hazardous material.
FR Financial Responsibility
FR1 Unsatisfied judgment.
FR2 Failure to meet requirements for the security-following-accident provisions of the FR law.
FR3 Failure to file future proof of financial responsibility following conviction for violation of motor vehicle law.
HR Hit and Run
Leaving the Scene
Evading Arrest
HR1 Failure to stop and render aid after involvement in accident resulting in bodily injury.

HR2 Failure to stop and reveal identity after involvement in accident resulting in property damage only.
HR3 Leaving the scene of an accident after providing aid or identity but before arrival of police.
HR4 Evading arrest by fleeing the scene of citation or roadblock.
HR5 Evading arrest by extinguishing lights (when lights required).
HR6* Leaving the scene of an accident involving a commercial motor vehicle operated by such person.
HV** Habitual Violator
Not an AAMVA code. For NDR use only.
MR Misrepresentation
Contributory Violations
MR1 Misrepresentation of identity or other facts to obtain a driver license. (If registration or title involved, see RT.)
MR2 Displaying a driver license which is invalid because of alteration, counterfeiting, or withdrawal (revocation, suspension, etc.).
MR3 Displaying the driver license of another person.
MR4 Loaning a driver license.
MR5 Obtaining or applying for a duplicate driver license during withdrawal.
MR6 Misrepresentation of identity or other facts to avoid arrest or prosecution.
RK Reckless, Careless, or Negligent Driving
RK1 Heedless, willful, wanton, or reckless disregard of the rights or safety of others in operating a motor vehicle, endangering persons or property.
RK2 Operating a motor vehicle without the exercise of care and caution required to avoid danger to persons or property.
RK3 Transporting hazardous substances without required safety devices or precautions.
RV Repeated Violations
RV1 Recurrence of violations requiring mandatory action of the licensing authority as specified by law.
RV2 Accumulation of violations resulting in mandatory action of the licensing authority because of statutory point system.
RV3 Accumulation of violations resulting in discretionary action by the licensing authority.
RV4 Committing serious traffic violation involving a commercial motor vehicle operated by such person.
SP Speeding
SP1 Contest racing on public trafficway.
SP2 Prima facie speed violation or driving too fast for conditions.
SP3 Speed in excess of posted maximum.
SP5 Operating at erratic or suddenly changing speeds.
SP6* Excessive speeding in a commercial vehicle.
Unsatisfied Judgment (See FR)
VR Violation of Restriction
Licensing Requirements

VR1 Driving while revoked.
 VR2 Driving while suspended.
 VR3 Driving while license denied.
 VR5 Operating without being licensed or without license required for type of vehicle operated.
 VR6 Allowing an unlicensed operator to drive.

*Recommended to AAMVA in response to a ballot on approval of a revision to the American National Standards Institute (ANSI) D20.1, "States' Model Motorist Data Base".

**Habitual Violator (HV) code was added to the AAMVA Violations Exchange Code by the NDR to accommodate the many States who enacted an HV law after the AAMVA Violations Exchange Code was developed. To be adjudged a Habitual Violator normally requires having been convicted of three major violations.

[56 FR 41403, Aug. 20, 1991; 56 FR 57256, Nov. 8, 1991]

APPENDIX B TO PART 1327—OMB CLEARANCE

The OMB clearance number of this regulation is OMB 2127-0001.

PART 1335—STATE HIGHWAY SAFETY DATA IMPROVEMENTS

Sec.

- 1335.1 Scope.
- 1335.2 Purpose.
- 1335.3 Definitions.
- 1335.4 Coordinating committee.
- 1335.5 Assessment.
- 1335.6 Strategic plan.
- 1335.7 Grant requirements.
- 1335.8 Grant amounts.
- 1335.9 Availability of funds.
- 1335.10 Grant limitations.
- 1335.11 Application procedures.
- 1335.12 Contents of application.

AUTHORITY: 23 U.S.C. 411; delegation of authority at 49 CFR 1.48.

SOURCE: 63 FR 54048, Oct. 8, 1998, unless otherwise noted.

§ 1335.1 Scope.

This part prescribes the requirements necessary to implement Section 411 of Title 23, United States Code, which encourages States to adopt and implement effective data improvement programs.

§ 1335.2 Purpose.

The purpose of this part is to improve the timeliness, accuracy, completeness, uniformity, and accessibility

of the data needed by each State to identify highway safety priorities; to evaluate the effectiveness of these improvements; to link highway safety data systems with other data systems within each State; and to improve the compatibility of the data system of each State with national data systems and data systems of other States to enhance the observation and analysis of national trends in crash occurrences, rates, outcomes, and circumstances.

§ 1335.3 Definitions.

As used in this part:

(a) *Highway safety data and traffic records* means data and records relating to crashes, roadways, drivers, vehicles, traffic offense citations/convictions, emergency medical services, locations and other data and records relating to highway safety.

(b) *Coordinating committee* means a committee that meets the requirements of § 1335.4 of this part.

(c) *Assessment* means a review of a State's highway safety data and traffic records system that meets the requirements of § 1335.5 of this part. For the purpose of this Part, an assessment includes an audit or a strategic planning analysis.

(d) *Strategic plan* means a multi-year plan that meets the requirements of § 1335.6 of this part.

(e) *Model data elements* means the data elements contained in the final Model Minimum Uniform Crash Criteria (MMUCC) published by the National Highway Traffic Safety Administration and the Federal Highway Administration (DOT HS 808 745, August 1998).

(f) *State* means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa or the Commonwealth of the Northern Mariana Islands.

§ 1335.4 Coordinating committee.

A coordinating committee shall—

(a) Include representatives from the administrators, collectors, and users of State highway safety data and traffic records, including representatives of highway safety, highway infrastructure, traffic enforcement, public

health, injury control, and motor carrier organizations;

(b) Have authority to review any of the State's highway safety data and traffic records systems and to review any changes to such systems before the changes are implemented;

(c) Provide a forum for the discussion of highway safety data and traffic records issues and report on any such issues to the organizations in the State that create, maintain, and use highway safety data and traffic records;

(d) Consider the views of the organizations in the State that are involved in the administration, collection and use of the highway safety data and traffic records system; coordinate these views among the organizations; and represent the interests of the organizations within the traffic records system to outside organizations;

(e) Review and evaluate new technologies to keep the highway safety data and traffic records systems up-to-date; and

(f) Develop, implement, and administer the strategic plan specified in § 1335.6 of this part.

§ 1335.5 Assessment.

An assessment shall—

(a) Be an in-depth, formal review of a State's highway safety data and traffic records system that considers the criteria contained in the model data elements;

(b) Generate an impartial report of the status of the highway safety data and traffic records system in the State; and

(c) Be conducted by an organization or group that is knowledgeable about highway safety data and traffic records systems, but independent from the organizations involved in the administration, collection and use of the highway safety data and traffic records systems in the State.

§ 1335.6 Strategic plan.

A strategic plan shall—

(a) Be a multi-year plan that identifies and prioritizes the highway safety data and traffic records needs and goals based upon an assessment;

(b) Identify performance-based measures by which progress toward those goals will be determined; and

(c) Be submitted to the coordinating committee for approval.

§ 1335.7 Grant requirements.

(a) *Start-up grant.* To receive a start-up grant in a fiscal year under this part, a State shall submit an application that complies with § 1335.12, and must have—

(1) Not met the requirements of paragraph (b) or (c) of this section; and

(2) Not received any grant under this Part in a previous fiscal year.

(b) *Initiation grant.* To qualify for an initiation grant in a fiscal year under this part, a State shall submit an application that complies with § 1335.12, and must have—

(1) Established a coordinating committee;

(2) Completed or updated an assessment within the five years preceding the date of its application;

(3) Initiated the development of a strategic plan; and

(4) Not received an initiation or an implementation grant under this part in a previous fiscal year.

(c) *Implementation grant.* To qualify for an implementation grant in a fiscal year under this part, a State shall submit an application that complies with § 1335.12, and must have—

(1) Established a coordinating committee;

(2) Completed or updated an assessment within the five years preceding the date of its application; and

(3) Developed a strategic plan.

§ 1335.8 Grant amounts.

(a) *Start-up grant.* A State that qualifies for a start-up grant under § 1335.7(a) of this part shall be eligible to receive \$25,000.

(b) *Initiation grant.* A State that qualifies for an initiation grant under § 1335.7(b) of this part shall be eligible to receive \$125,000.

(c) *Implementation grant.* A State that qualifies for an implementation grant under § 1335.7(c) of this part shall be eligible to receive an amount determined by multiplying the amount appropriated to carry out 23 U.S.C. 411 by the ratio that the funds apportioned to the State under 23 U.S.C. 402 for fiscal year 1997 bears to the funds apportioned to

§ 1335.9

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all States under 23 U.S.C. 402 for fiscal year 1997, except that—

(1) If the State has not received an initiation or an implementation grant under this part in a previous fiscal year, the State shall receive no less than \$250,000; and

(2) If the State has received an initiation or an implementation grant under this part in a previous fiscal year, the State shall receive no less than \$225,000.

§ 1335.9 Availability of funds.

(a) The release of grant funds under this part in a fiscal year shall be subject to the availability of funds for that fiscal year. If there are expected to be insufficient funds to award the grant amounts specified in § 1335.8 to all eligible States in any fiscal year, NHTSA may release less than these grant amounts upon approval of the State's application and plan, up to the State's proportionate share of available funds. Project approval and the contractual obligation of the Federal government to provide grant funds shall be limited to the amount of funds released.

(b) If any amounts authorized for grants under this part for a fiscal year are expected to remain unobligated in that fiscal year, the Administrator may transfer such amounts to the programs authorized under 23 U.S.C. 405 and 23 U.S.C. 410, to ensure to the extent possible that each State receives the maximum incentive funding for which it is eligible.

(c) If any amounts authorized for grants under 23 U.S.C. 405 and 23 U.S.C. 410 are transferred to the grant program under this part in a fiscal year, the Administrator shall distribute the transferred amounts so that each eligible State receives a proportionate share of these amounts, subject to the conditions specified in § 1335.8 and paragraph (a) of this section.

§ 1335.10 Grant limitations.

(a) No State may receive a grant under this part in more than six fiscal years.

(b) Grants may be used by States only to adopt and implement effective highway safety data and traffic records programs:

(1) To improve the timeliness, accuracy, completeness, uniformity, and accessibility of the data of the State that is needed to identify priorities for national, State and local highway and traffic safety programs;

(2) To evaluate the effectiveness of efforts to make such improvements;

(3) To link these State data systems, including traffic records, with other data systems within the State, such as systems that contain medical and economic data; and

(4) To improve the compatibility of the data system of the State with national data systems and data systems of other States and to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

(c) In the first and second Federal fiscal years a State receives a grant under this part, the Federal share of the costs of adopting and implementing an effective highway safety data and traffic records program shall not exceed 75 percent.

(d) In the third and fourth Federal fiscal year in which a State receives a grant under this part, the Federal share of the costs of adopting and implementing an effective highway safety data and traffic records program shall not exceed 50 percent.

(e) In the fifth and sixth Federal fiscal years a State receives a grant under this part, the Federal share of the costs of adopting and implementing an effective highway safety data and traffic records program shall not exceed 25 percent.

§ 1335.11 Application procedures.

(a) A State applying for a grant under this part shall submit an original and two copies of its application to the NHTSA Regional Administrator for the Region in which the State is located.

(b) To be considered for a grant in any fiscal year, an application must be received by the agency not later than January 15 of that fiscal year.

(c) Within 30 days of being informed by NHTSA that it is eligible for a grant, a State shall submit to the agency a Program Cost Summary (HS Form 217) obligating the funds under

this part to highway safety data and traffic records programs.

(d) The State shall document how it intends to use the funds under this part in the Highway Safety Plan it submits pursuant to 23 CFR 1200.

§ 1335.12 Contents of application.

(a) *Start-up grant.* An application for a start-up grant under § 1335.7(a) shall certify that the State —

(1) Does not meet the requirements of § 1335.7 (b) or (c) of this part; and

(2) Will use the grant funds to conduct activities necessary to qualify for a grant under § 1335.7 (b) or (c) of this part in the next fiscal year.

(b) *Initiation grant.* An application for an initiation grant under § 1335.7(b) shall—

(1) Certify that the State has established a coordinating committee, and include the name, title and organizational affiliation of each member of the coordinating committee;

(2) Certify that the State has conducted or updated an assessment within the last five years, and submit a copy of the assessment and any updates of the assessment; and

(3) Certify that the State has initiated the development of a strategic plan, with the supervision and approval of the coordinating committee.

(c) *Implementation grant.* (1) An application for an implementation grant under § 1335.7(c), if the State has not received an initiation or an implementation grant under this part in a previous fiscal year, shall—

(i) Certify that the State has established a coordinating committee, and include the name, title and organizational affiliation of each member of the coordinating committee;

(ii) Certify that the State has conducted or updated an assessment within the last five years, and submit a copy of the assessment and any updates of the assessment;

(iii) Submit a strategic plan that specifies how the grant funds awarded to the State under this part for the fiscal year will be used to address the needs and goals identified in the plan; and

(iv) Certify that the coordinating committee continues to operate and supports the strategic plan.

(2) An application for an implementation grant under § 1335.7(c), if the State has received an initiation or an implementation grant under this part in a previous fiscal year, shall—

(i) Certify that the coordinating committee continues to operate and supports the strategic plan and identify any changes to the membership of the coordinating committee;

(ii) Submit a strategic plan or an update to the plan that specifies how the grant funds awarded to the State under this part for the fiscal year will be used to address the needs and goals identified in the plan; and

(iii) Report on the progress of the State in implementing the strategic plan since the State's previous application.

(d) *Any grant under this part.* An application for a grant under § 1335.7 (a), (b), or (c) of this part shall certify that the State will:

(1) Use the funds awarded under 23 U.S.C. 411 only to adopt and implement an effective highway safety data and traffic records program, in accordance with 23 CFR 1335.10(b);

(2) Administer the funds in accordance with 49 CFR part 18 and OMB Circulars A-102 and A-87; and

(3) Maintain its aggregate expenditures from all other sources, except those authorized under Chapter 1 of Title 23 of the United States Code, for highway safety data and traffic records programs at or above the average level of such expenditures in Federal fiscal years 1996 and 1997 (either State or federal fiscal year 1996 and 1997 can be used).

[63 FR 54048, Oct. 8, 1998, as amended at 65 FR 48911, Aug. 10, 2000]

PART 1340—UNIFORM CRITERIA FOR STATE OBSERVATIONAL SURVEYS OF SEAT BELT USE

Sec.

1340.1 Purpose.

1340.2 Applicability.

1340.3 Basic design requirements.

1340.4 Population, demographic, and time/day requirements.

1340.5 Documentation requirements.

APPENDIX A TO PART 1340—SAMPLE DESIGN

AUTHORITY: 23 U.S.C. 157; delegation of authority at 49 CFR 1.50.

§ 1340.1

SOURCE: 63 FR 46392, Sept. 1, 1998, unless otherwise noted.

§ 1340.1 Purpose.

This part establishes uniform criteria for surveys of seat belt use conducted by States under 23 U.S.C. 157.

§ 1340.2 Applicability.

These uniform criteria apply to State surveys of seat belt use, beginning in calendar year 1998 (except as otherwise provided in this part), and continuing annually thereafter through calendar year 2001.

§ 1340.3 Basic design requirements.

Surveys conducted in accordance with this part shall incorporate the following minimum design requirements:

(a) *Probability-based requirement.* The sample identified for the survey shall have a probability-based design such that estimates are representative of safety belt use for the population of interest in the state and sampling errors may be calculated for each estimate produced.

(b) *Observational requirement.* Minimum requirements include the following:

(1) The sample data shall be collected through direct observation of seat belt use on roadways within the State, conducted completely within the calendar year for which the seat belt use rate is being reported;

(2) Seat belt use shall be determined by observation of the use or non-use of a shoulder belt;

(3) Observers shall be required to follow a predetermined, clear policy in the event that observations cannot be made at an assigned site at the specified time (due to heavy rain, construction, safety problems, etc.);

(4) Instructions to observers shall specify which road and which direction of traffic on that road are to be observed (observers must not be free to choose between roads at an intersection); and

(5) Observers shall follow clear instructions on how to start and end an observation period and how to stop and start observations if traffic flow is too heavy to observe all vehicles or if vehicles begin moving too quickly for observation (to remove any possible bias,

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such as starting with the next belted driver).

(c) *Precision requirement.* The relative error (standard error divided by the estimate) for safety belt use must not exceed 5 percent.

§ 1340.4 Population, demographic, and time/day requirements.

Surveys conducted in accordance with this part shall comply with the following minimum population, demographic, and time/day requirements:

(a) *Population of interest.* (1) Drivers and front seat outboard passengers in passenger motor vehicles (passenger cars, pickup trucks, vans, and sport utility vehicles) must be observed in the survey. (Only overall restraint use for the population of interest is required. However, in order to assist in the evaluation of trends, it is recommended that data be collected in such a way that restraint use estimates can be reported separately for passenger cars and other covered vehicles, and separately for drivers and front-seat outboard passengers within those vehicle groups.)

(2) Surveys conducted during calendar year 1998 shall be deemed to comply with paragraph (a)(1) of this section if passenger motor vehicles registered in-State are included in the survey. For surveys conducted during calendar year 1999 and thereafter, passenger motor vehicles registered both in-state and out-of-state must be included in the survey.

(b) *Demographics.* Counties, or other primary sampling units, totaling at least 85 percent of the State's population must be eligible for inclusion in the sample. States may eliminate their least populated counties, or other primary sampling units, to a total of fifteen percent or less of the total State population, from the sampling frame.

(c) *Time of day and day of week.* All daylight hours for all days of the week must be eligible for inclusion in the sample. Observation sites must be randomly assigned to the selected day-of-week/time-of-day time slots. If observation sites are grouped to reduce data collection burdens, a random process

must be used to make the first assignment of a site within a group to an observational time period. Thereafter, assignment of other sites within the group to time periods may be made in a manner that promotes administrative efficiency and timely completion of the survey.

[63 FR 46392, Sept. 1, 1998, as amended at 65 FR 13683, Mar. 14, 2000]

§ 1340.5 Documentation requirements.

All sample design, data collection, and estimation procedures used in State surveys conducted in accordance with this part must be well documented. At a minimum, the documentation must:

- (a) For sample design—
 - (1) Define all sampling units, with their measures of size;
 - (2) Define what stratification was used at each stage of sampling and what methods were used for allocation of the sample units to the strata;
 - (3) Explain how the sample size at each stage was determined;
 - (4) List all samples units and their probabilities of selection; and
 - (5) Describe how observation sites were assigned to observation time periods.
- (b) For data collection—
 - (1) Define an observation period;
 - (2) Define an observation site and what procedures were implemented when the observation site was not accessible on the date assigned;
 - (3) Describe what vehicles were observed and what procedures were implemented when traffic was too heavy to observe all vehicles; and
 - (4) Describe the data recording procedures.
- (c) For estimation—
 - (1) Display the raw data and the weighted estimates;
 - (2) For each estimate, provide an estimate of one standard error and an approximate 95 percent confidence interval; and
 - (3) Describe how estimates were calculated and how variances were calculated.

APPENDIX A TO PART 1340—SAMPLE DESIGN

Following is a description of a sample design that meets the final survey guidelines

and, based upon NHTSA's experience in developing and reviewing such designs, is presented as a reasonably accurate and practical design. Depending on the data available in a State, substitutions in this design can be made without loss of accuracy. This information is intended only as an example of a complying survey design and to provide guidance for States concerning recommended design options. These are not design requirements. It is recommended that State surveys of safety belt use be designed by qualified survey statisticians.

I. SAMPLE DESIGN

A. *Sample population*: It is recommended that all controlled intersections or all roadway segments in the State (or in the parts of the State that have not been excluded by the 85 percent demographic guideline) be eligible for sampling.

B. *First Stage*: Usually, counties are the best candidates for primary sampling units (PSUs). In large States with differing geographic areas, it is recommended that stratification of PSUs by geographic region be employed prior to PSU selection. Counties should be randomly selected, preferably with probabilities proportional to vehicle miles of travel (VMT) in each county. If VMT is not available by county, PSUs can also be selected with probability proportional to county population. When sampling PSUs, States should ensure that an adequate mix of rural and urban areas are represented. In some cases, urban/rural stratification must be employed prior to PSU selection. In other cases, it may be more practical to perform urban/rural stratification at the second sampling stage.

C. *Second Stage*: Within sampled PSUs, it is recommended that road segments be stratified by road type. For example, a two-strata design might be major roads vs. local roads, a three strata design might be high, medium and low traffic volume roads. The sample should be allocated to these strata by estimated annual VMT in each stratum. The sample of road segments within a stratum should be selected with probability proportional to average daily VMT. When enumerating all local roads is impractical, additional stages of selection can be introduced and alternative sample probabilities can be used. For example, census tracts within counties can be selected with probability proportional to VMT, or, if VMT is not available, proportional to the square root of the population. Next, within each sampled census tract, road segments can be selected.

D. *Sample Size*: The following tables are provided as rough guidelines for determining sample size for estimating belt use with the required level of precision. The numbers are based on results from previous probability-based seat belt surveys.

DETERMINING FIRST STAGE SAMPLE SIZE

Number of counties in State	Number of counties in sample
10	7
20	11
30	13
40	15
50	16
60	17
70	18
80	19
90	19
100–120	20
130–170	21
More than 180	22

DETERMINING SECOND STAGE SAMPLE SIZE

Average number of road segments in each sampled county	Number of road segments sampled in each sample county
50	19
60	20
70	21
80	21
90	22
100	23
200	26
300	27
400	27
500–900	28
More than 1000	29

E. *Example:* To achieve the required level of precision, a State with 100 counties would sample 20 counties at the first stage. At the second stage, assuming an average of 100 road segments in each sampled county, a sample of 23 road segments per county would be selected. The total sample size would be 20×460 observational sites.

II. DATA COLLECTION

A. Exact observation sites, such as the specific intersection on a road segment, should be determined prior to conducting the observations.

B. Direction of traffic to be observed should be determined prior to conducting the observations.

C. If traffic volume is too heavy to accurately record information, predetermined protocol should exist for selecting which travel lanes to observe.

D. Observations should be conducted for a predetermined time period, usually one hour. Time periods should be the same at each site.

E. To minimize travel time and distance required to conduct the observations, clus-

tering of sampled sites can be done. Sample sites should be grouped into geographic clusters, with each cluster containing major and local roads. Assignment of sites and times within clusters should be random.

F. Two counts should be recorded for all eligible vehicles:

1. Number of front seat outboard occupants.

2. Number of these occupants wearing shoulder belts.

III. ESTIMATION

A. Observations at each site should be weighted by the site's final probability of selection.

B. An estimate of one standard error should be calculated for the estimate of belt use. Using this estimate, 95 percent confidence intervals for the estimate of safety belt use should be calculated.

PART 1345—INCENTIVE GRANT CRITERIA FOR OCCUPANT PROTECTION PROGRAMS

Sec.

1345.1 Scope.

1345.2 Purpose.

1345.3 Definitions.

1345.4 General requirements.

1345.5 Requirements for a grant.

1345.6 Award procedures.

AUTHORITY: Pub. L. 105–178; 23 U.S.C. 405; delegation of authority at 49 CFR 1.50.

SOURCE: 63 FR 52597, Oct. 1, 1998, unless otherwise noted.

§ 1345.1 Scope.

This part establishes criteria, in accordance with section 2003 of the Transportation Equity Act for the 21st Century, for awarding incentive grants to States that adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

§ 1345.2 Purpose.

The purpose of this part is to implement the provisions of section 2003 of the Transportation Equity Act for the 21st Century, 23 U.S.C. 405, and to encourage States to adopt effective occupant protection programs.

§ 1345.3 Definitions.

(a) *Child restraint system* means child safety seat.

(b) *Child safety seat* means any device (except safety belts) designed for use in a motor vehicle to restrain, seat, or position a child who weighs 50 pounds or less.

(c) *Minimum fine* means a total monetary penalty which may include fines, fees, court costs, or any other additional monetary assessments collected.

(d) *Passenger motor vehicle* means a passenger car, pickup truck, van, minivan, or sport utility vehicle.

(e) *State* means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa or the Commonwealth of the Northern Mariana Islands.

(f) *Targeted population* means a specific group of people chosen by a State to receive instruction on proper use of child restraint systems.

[63 FR 52597, Oct. 1, 1998, as amended at 66 FR 38918, July 26, 2001]

§ 1345.4 General requirements.

(a) *Qualification requirements.* To qualify for a grant under 23 U.S.C. 405, a State must, for each year it seeks to qualify:

(1) Submit an application to the appropriate NHTSA Regional Administrator demonstrating that it meets the requirements of § 1345.5 and include certifications that:

(i) It has an occupant protection program that meets the requirements of 23 U.S.C. 405;

(ii) It will use the funds awarded under 23 U.S.C. 405 only for the implementation and enforcement of occupant protection programs;

(iii) It will administer the funds in accordance with 49 CFR part 18 and OMB Circulars A-102 and A-87 and

(iv) It will maintain its aggregate expenditures from all other sources, except those authorized under Chapter 1 of Title 23 of the United States Code, for its occupant protection programs at or above the average level of such expenditures in fiscal years 1996 and 1997 (either State or federal fiscal year 1996 and 1997 can be used);

(2) After being informed by NHTSA that it is eligible for a grant, submit to the agency, within 30 days, a Program Cost Summary (HS Form 217) obli-

gating the section 405 funds to occupant protection programs.

(3) The State's Highway Safety Plan, which is required to be submitted by September 1 of each year, pursuant to 23 U.S.C. 402 and 23 CFR 1200, should document how it intends to use the Section 405 grant funds.

(4) To qualify for grant funds in any fiscal year, the application must be received by the agency not later than August 1 of the fiscal year in which the State is applying for funds.

(b) *Limitation on grants.* A State may receive a grant for up to six fiscal years beginning after September 30, 1998, subject to the following limitations:

(1) The amount of a grant, under § 1345.5 shall equal up to 25 percent of the State's 23 U.S.C. 402 apportionment for fiscal year 1997, subject to availability of funds.

(2) In the first and second fiscal years a State receives a grant, it shall be reimbursed for up to 75 percent of the cost of its occupant protection program adopted pursuant to 23 U.S.C. 405.

(3) In the third and fourth fiscal years a State receives a grant, it shall be reimbursed for up to 50 percent of the cost of its occupant protection program adopted pursuant to 23 U.S.C. 405.

(4) In the fifth and sixth fiscal years a State receives a grant, it shall be reimbursed for up to 25 percent of the cost of its occupant protection program adopted pursuant to 23 U.S.C. 405.

[63 FR 52597, Oct. 1, 1998, as amended at 66 FR 38918, July 26, 2001]

§ 1345.5 Requirements for a grant.

To qualify for an incentive grant, a State must adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. A State must adopt and implement at least four of the following criteria:

(a) *Safety belt use law.* (1) In fiscal years 1999 and 2000, a State must make unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in the front seat of the vehicle does not have a safety belt properly secured about the individual's body.

(2) Beginning in fiscal year 2001, a State must make unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in any seating position in the vehicle does not have a safety belt properly secured about the individual's body.

(3) To demonstrate compliance with this criterion, a State shall submit a copy of the State's safety belt use law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraphs (a)(1) or (a)(2), as appropriate, of this section. The State is also required to identify any exemptions to its safety belt use law.

(b) *Primary safety belt use law.* (1) A State must provide for primary enforcement of its safety belt use law.

(2) To demonstrate compliance with this criterion, the State shall submit a copy of its law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraph (b)(1) of this section.

(c) *Minimum fine or penalty points.* (1) A State must provide for the imposition of a minimum fine of not less than \$25.00 or one or more penalty points on the driver's license of an individual:

(i) For a violation of the State's safety belt use law; and

(ii) for a violation of the State's child passenger protection law.

(2)(i) To demonstrate compliance with this criterion, a Law State shall submit a copy of the law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraph (c)(1) of this section.

(ii) For purposes of this paragraph, a "Law State" means a State that has a law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of the minimum fines or penalty points criterion including the imposition of a minimum fine of not less than \$25.00 or one or more penalty points for a violation of the State's safety belt use and child passenger protection laws.

(3)(i) To demonstrate compliance with this criterion, a Data State shall

submit data covering a period of at least three months during the past twelve months showing the total number of persons who were convicted of a safety belt use or child passenger protection law violation and that 80 percent or more of all such persons were required to pay at least \$25 in fines, fees or court costs or had one or more penalty points assessed against their driver's license. The State can provide the necessary data based on a representative sample.

(ii) For purposes of this paragraph, a "Data State" means a State that does not require the mandatory imposition of a minimum fine of not less than \$25.00 or one or more penalty points for a violation of the State's safety belt use and child passenger protection laws.

(4) If a State has in effect a law that provides for the imposition of a fine of not less than \$25.00 or one or more penalty points for a violation of the State's child passenger protection law, but provides that imposition of the fine or penalty points may be waived if the offender presents proof of the purchase of a child safety seat, the State shall be deemed to have in effect a law that provides for the imposition of a minimum fine or penalty points, as provided in paragraph (c)(1) of this section.

(d) *Special traffic enforcement program.*

(1) A State must establish a statewide Special Traffic Enforcement Program for occupant protection that emphasizes publicity for the program. The program must provide for periodic enforcement efforts. Each enforcement effort must include the following five elements, in chronological order:

(i) A seat belt observed use survey conducted before any enforcement wave;

(ii) A media campaign to inform the public about the risks and costs of traffic crashes, the benefits of increased occupant protection use, and the need for traffic enforcement as a way to manage those risks and costs.

(iii) Local media events announcing a pending enforcement wave;

(iv) A wave of enforcement effort consisting of checkpoints, saturation patrols or other enforcement tactics.

(v) A post-wave observed use survey coupled with a post-wave media event announcing the results of the survey and the enforcement effort.

(2) The State's program must provide for at least two enforcement efforts each year and must require the participation of State and local law enforcement officials in each effort.

(3) The State's program must cover at least 70% of the State's population.

(4) To demonstrate compliance with this criterion in the first year the State receives a grant based on this criterion, the State shall submit a plan to conduct a program that covers each element identified in paragraphs (d)(1) through (d)(3) of this section. Specifically, the plan shall:

(i) Provide the approximate dates, durations and locations of the efforts planned in the upcoming year;

(ii) Specify the types of enforcement methods that will be used during each enforcement effort and provide a listing of the law enforcement agencies that will participate in the enforcement efforts along with an estimate of the approximate cumulative percentage of the State's population served by those agencies or the approximate percentage of the traffic volume on roadways covered by the enforcement program; and

(iii) Document the activities the State plans to conduct to provide the public with information on the importance of occupant restraints and to publicize each enforcement effort and its results. This information should include a sample or synopsis of the content of the public information messages that will accompany the enforcement efforts and the strategy that the State intends to use to deliver each message to its target audience.

(5) To demonstrate compliance with this criterion in subsequent fiscal years the State receives a grant based on this criterion, the State shall submit an updated plan for conducting a special traffic enforcement program in the following year and information documenting that the prior year's plan was effectively implemented. The information shall document that enforcement efforts were conducted; which law enforcement agencies were involved; and the dates, duration and location of

each enforcement effort. The State must also submit samples of materials used, and document activities that took place to reach the target population.

(e) *Child passenger protection education program.* (1) A State must provide an effective system for educating the public about the proper use of child safety seats. The program must, at a minimum:

(i) Provide information to the public about proper seating positions for children in air bag equipped motor vehicles, the importance of restraint use, and instruction on how to reduce the improper use of child restraint systems;

(ii) Provide for child passenger safety (CPS) training and retraining to establish or update child passenger safety technicians, law enforcement officials, fire and emergency personnel and other educators to function at the community level for the purpose of educating the public about proper restraint use and to teach child care givers how to install a child safety seat correctly. The training should encompass the goals and objectives of NHTSA's Standardized Child Passenger Safety Technician Curriculum;

(iii) Provide periodic child safety seat clinics conducted by State and local agencies (health, medical, hospital, enforcement, etc.); and

(iv) The States's public information program must reach at least 70% of the State's total population. The State's clinic program must reach at least 70% of a targeted population determined by the State and States must provide a rationale for choosing a specific group, supported by data, where possible.

(2) To demonstrate compliance with this criterion in the first fiscal year the State receives a grant based on this criterion, the State shall submit a plan to conduct a child passenger protection education program that covers each element identified in paragraph (e) (1) of this section. The information shall include:

(i) A sample or synopsis of the content of the planned public information program and the strategy that will be used to reach 70% of the State's population;

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(ii) A description of the activities that will be used to train and retrain child passenger safety technicians, law enforcement officials, fire and emergency personnel and other educators and provide the durations and locations of such training activities;

(iii) An estimate of the approximate number of people who will participate in the training and retraining activities; and

(iv) A plan to conduct clinics that will serve at least 70% of the targeted population.

(3) To demonstrate compliance with this criterion in subsequent fiscal years the State receives a grant based on this criterion, the State shall submit an updated plan for conducting a child passenger protection education program in the following year and information documenting that the prior year's plan was effectively implemented. The information shall document that a public information program, training and child safety seat clinics were conducted; which agencies were involved; and the dates, durations and locations of these programs.

(f) *Child passenger protection law.* (1) The State must make unlawful the operation of a passenger motor vehicle whenever an individual who is less than 16 years of age is not properly secured in a child safety seat or other appropriate restraint system.

(2) To demonstrate compliance with this criterion, a State shall submit a copy of the law(s), regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraph (f)(1) of this section. In addition, the State must identify any exemptions to its child passenger protection law(s).

(g) *Certifications in subsequent years.*

(1) To demonstrate compliance in subsequent years the State receives a grant based on criteria in paragraphs (a), (b), (c) or (f) of this section, if the State's law, regulation or binding policy directive has not changed, the State, in lieu of resubmitting its law, regulation or binding policy directive as provided in paragraphs (a)(3), (b)(2), (c)(2)(i) or (f)(2) of this section, may submit a statement certifying that there have been no substantive changes

in the State's laws, regulations or binding policy directives.

(2) The certifying statement shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of _____, do hereby certify that the (State or Commonwealth) of _____ has not changed and is enforcing a law, that conforms to 23 U.S.C. 405 and 23 CFR 1345.5 (insert reference to section and paragraph), (citations to State law).

[63 FR 52597, Oct. 1, 1998, as amended at 66 FR 38918, July 26, 2001]

§ 1345.6 Award procedures.

(a) In each Federal fiscal year, grants will be made to eligible States upon submission and approval of the application required by § 1345.4(a) and subject to the limitation in § 1345.4(b). The release of grant funds under this part shall be subject to the availability of funding for that fiscal year. If there are expected to be insufficient funds to award full grant amounts to all eligible States in any fiscal year, NHTSA may release less than the full grant amounts upon initial approval of the State's application and documentation and the remainder of the full grant amounts, up to the State's proportionate share of available funds, before the end of that fiscal year. Project approval, and the contractual obligation of the Federal government to provide grant funds, shall be limited to the amount of funds released.

(b) If any amounts authorized for grants under this part for a fiscal year are expected to remain unobligated in that fiscal year, the Administrator may transfer such amounts to the programs authorized under 23 U.S.C. 410 and 23 U.S.C. 411, to ensure to the extent possible that each State receives the maximum incentive funding for which it is eligible.

(c) If any amounts authorized for grants under 23 U.S.C. 410 and 23 U.S.C. 411 are transferred to the grant program under this part in a fiscal year, the Administrator shall distribute the transferred amounts so that each eligible State receives a proportionate share of these amounts, subject to the conditions specified in § 1345.4.

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